

DAVID BURCHARD  
CHAPTER 13 TRUSTEE  
P.O. BOX 8059  
FOSTER CITY, CA 94404  
(650) 345-7801 FAX (650) 345-1514  
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:

BENJAMIN RUIZ  
2841 TEMPLE COURT  
EAST PALO ALTO, CA 94303

Debtor(s)

Chapter 13  
Case No: 17-30506 DM  
Date: January 16, 2019  
Time: 01:00 PM  
Cttrm: 450 GOLDEN GATE AVENUE  
16th FLOOR - COURTROOM #17  
SAN FRANCISCO, CA 94102-

MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,  
TO DISMISS CASE UNDER 11 U.S.C. SECTION 1307(c)

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR'S(') ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the court for an order, pursuant to 11 U.S.C. Section 1307(c), dismissing this case for cause in that the Debtor(s) failed to sell or refinance property by the date stated in Debtor(s)' confirmed Chapter 13 Plan.

1. This court has jurisdiction over this matter pursuant to 11 U.S.C. Section 1307 (c), Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. Section 157(b)(2)(A).
2. This motion is made for cause pursuant to 11 U.S.C. Section 1307(c) on grounds that the Debtor(s) failed to sell or refinance property by the date stated in Debtor(s)' confirmed Chapter 13 Plan. This motion is based upon all documents, records on file, together with this Notice of Motion, Motion, Declaration and any such additional documents, records and evidence which may be presented.
3. An Order Confirming Plan was entered 02/22/2018.
4. Pursuant to the Debtor(s)' confirmed plan, the Debtor(s) shall sell or refinance property, as described as:

3311 MIDDLE CREEK RANCH RD.  
KLAMATH RIVER, CA 96050

5. The cause to dismiss this case exists because the Debtor(s) has failed to sell or refinance property by the date stated in the Debtor(s)' confirmed Chapter 13 Plan and the Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney may appear at the hearing on this motion and present argument in opposition to this motion

Dated: December 17, 2018

David Burchard  
David Burchard, Chapter 13 Trustee

DAVID BURCHARD  
CHAPTER 13 TRUSTEE  
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DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,  
DAVID BURCHARD'S, MOTION TO DISMISS CASE UNDER  
11 U.S.C. SECTION 1307(c)

I am the custodian and/or keeper of the business records referenced herein, and I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration except as to those stated on information and belief, and as to those matters, I believe them to be true and correct. If called upon as a witness, I could and would competently testify to the fact contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. An Order Confirming Plan was entered 02/22/2018.
2. Pursuant to the Debtor(s)' confirmed plan, the Debtor(s) shall sell or refinance property, as described as:

3311 MIDDLE CREEK RANCH RD.  
KLAMATH RIVER, CA 96050

3. As of the date hereof, the above-referenced property or properties have not been sold or refinanced pursuant to the terms of the confirmed Chapter 13 Plan, nor has the Trustee been apprised of a pending sale or refinance.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on December 17, 2018, in Foster City, California.

Dated: December 17, 2018

David Burchard

David Burchard, Chapter 13 Trustee

## CERTIFICATE OF SERVICE

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 1065 E. Hillsdale Blvd., Suite #200, Foster City, CA. On the date set forth below, I served a true and correct copy of the **Motion of Chapter 13 Trustee, David Burchard, to Dismiss Case Under 11 U.S.C. Section 1307(c), the Declaration in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Under 11 U.S.C. Section 1307(c)** and this **Certificate of Service**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

BENJAMIN RUIZ  
2841 TEMPLE COURT  
EAST PALO ALTO, CA 94303

The following recipients have been served via Court's Notice of Electronic Filing:

RICHARD A. LACAVA  
court@lacavalaw.com

Dated: December 17, 2018

LIZ WHIGHAM  
LIZ WHIGHAM